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10/736,126

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Patricia Alice McParland

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EXAMINER

KAZIMI, HANI M

ART UNIT

PAPER NUMBER

3691

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/736,126	<b>Applicant(s)</b> MCPARLAND ET AL.	
	<b>Examiner</b> Hani Kazimi	<b>Art Unit</b> 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. This communication is in response to the amendment filed on December 3, 2007. Claims 1-20 are pending. The rejections cited are as stated below:

### ***Summary of this Office Action***

2. Applicants' amendment and arguments filed on December 3, 2007 have been fully considered, and discussed in the next section below or within the following rejection are not deemed to be persuasive. Therefore, claims 1-20 are rejected as being unpatentable over the art cited below, and Applicants' request for allowance is respectfully denied.

### ***Claim Objections***

3. Claims 1-20 are objected to because of the following informalities:

In particular, amended claims 1, 11 and 12 have a typographical error; "an historical analysis" should rather be -- a historical analysis --. Appropriate correction is required.

### ***Response to Applicants' Amendment***

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-17 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Early et al. US Patent Publication No. 2003/0004868 A1 (hereinafter “Early”).

Claims 1-17 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Early as discussed in paragraph 3 of the previous office action mailed on July 30, 2007. Further:

Early discloses that the aggressive and conservative models perform an historical analysis of credit demand of entities that are represented in a business information database and have a profile substantially similar to said entity [Para 30].

Early states, “... the amount that the Tier 1 limit may be adjusted may be based on whether the cardholder satisfies this credit risk criteria. For instance, lower risk cardholders may receive a higher increase to their Tier 1 and Tier 2 limits. Processor 508 may determine the credit risk associated with a cardholder based on the cardholder's overall credit history, the cardholder's account history (e.g., number of missed or late payments, number of over limit transactions, etc.), as well as the current status of the account (e.g., outstanding balance, minimum next payment due, etc). For example, processor 508 may determine, using techniques well known to those skilled in the art, a likelihood that the customer will default or become delinquent

in making payments to the account. Such determinations, as stated above, may be based on the customer's credit history, including the customer's account history. It will be understood by those skilled in the art that different predetermined credit risk criteria may I also be used..."

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or unobviousness.
5. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Early et al. US Patent Publication No. 2003/0004868 A1 (hereinafter "Early").

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Early as discussed in paragraph 4 of the previous office action mailed on July 30, 2007.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-20 have been fully considered but are not deemed to be persuasive. Applicant argues in substance that;

The prior art reference, " the Early et al. publication specifically mentions that the determination of credit risk can be based on factors such as cardholder's overall credit history, the cardholder's account history, and current status of the account. Such factors are specifically based on the behavior of the cardholder. The Early et al. patent does not describe the determination of credit risk being based on an evaluation of the behavior of entities other than the cardholder. Consequently, the Early et al. publication does not disclose that the aggressive and conservative models perform a historical analysis of credit demand of entities that are represented in a business information database and have a profile substantially similar to said entity, as recited in claim 1.

In response to the above argument:

As indicated above, Early clearly discloses that the aggressive and conservative models perform a historical analysis of credit demand of entities that are represented in a business information database and have a profile substantially similar to said entity [Para 30].

In response to Applicant's argument that the reference fails to show certain features of Applicant's invention, it is noted that the features upon which Applicant relies (i.e. the determination of credit risk being based on an evaluation of the behavior of entities other than the cardholder) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). During the examination process, the claims must be given their broadest reasonable interpretation. The newly added limitations do not describe that determination of credit risk being based on an evaluation of the behavior of entities other than the cardholder. The claims do not recite that the entities are other than the cardholder, or the entities are different than said entity. Therefore, the teachings of the Early reference still meet the claimed limitations.

### ***Conclusion***

7. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hani Kazimi whose telephone number is (571) 272-6745. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691

February 17, 2008